

THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION  
NO. 3:22-cv-191

KANAUTICA ZAYRE-BROWN,

Plaintiff,

v.

NORTH CAROLINA DEPARTMENT  
OF PUBLIC SAFETY, et al.,

Defendants.

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**DEFENDANTS' CONSENT  
MOTION TO EXCUSE  
CERTAIN NAMED  
DEFENDANTS FROM  
MEDIATION**

**NOW COME** Defendants, through the undersigned counsel, pursuant to Local Rule 16.2 to respectfully request that this Court excuse the individually named defendants from attending the mediated settlement conference, which is currently scheduled to commence on Thursday, July 6, at 9:00 a.m. at the North Carolina Department of Justice, located at 114 W. Edenton Street in Raleigh, North Carolina.

In support of this motion, Defendants state the following:

1. On October 20, 2022, the Court entered a pre-trial order and case management plan, which included a deadline to submit a mediation report no later than May 15, 2023. DE-28.
2. Thereafter, on Defendants' motion, various case management deadlines were modified, including the mediation deadline, which was extended to June 2, 2023. *See* DE-36.
3. On May 12, 2023, this Court granted the parties' joint motion, which among other things, again extended the mediation deadline and tied it to the conclusion of other events. DE-46.
4. The mediation deadline has not yet passed.
5. In this action, Plaintiff named a total of 16 defendants, including the North Carolina Department of Public Safety ("the Department"), Eddie Buffaloe Jr., Todd Ishee, Gary Junker, Ph.D., Brandeshawn Harris, Arthur Campbell, M.D., Terri Catlett, Jonathan Peiper, Ph.D., Brian Sheitman, M.D., Valerie Langley, Abhay Agarwal, M.D., Sarah Cobb, Josh Panter, Charlotte Williams, and

Elton Amos, M.D.

6. Plaintiff has sued these individual defendants in their official capacities only. Such claims are effectively claims against the State.

7. Thus, the interests implicated by the official capacity claims against the individual defendants are one in the same as the interests implicated by the claims against the State, acting through the Department.

8. Therefore, the interests of the individual defendants are adequately represented by the Department and the presence of the individual defendants at the mediation would be redundant to the presence and participation of the Department.

9. The Department will participate in the mediation through at least three representatives, including the Department's General Counsel and two Deputy Secretaries.

10. The Department representatives will have the authority and ability to negotiate and enter into any binding settlement agreement on behalf of the Department and the individual defendants.

11. Therefore, Defendants can meaningfully participate in the mediation without the presence of the individual defendants through the participation of the Department and its representatives.

12. The individual Defendants have significant responsibilities to the State of North Carolina and its people, and the public interest is better served by them attending to those responsibilities and not attending the mediation.

13. Due to her incarceration, Plaintiff will participate in the mediation by videoconference.

14. Plaintiff consents to this motion.

**WHEREFORE**, Defendants respectfully request that this Court excuse the individual defendants from attending the July 6, 2023, mediated settlement conference.

This the 19th day of June 2023.

**JOSHUA H. STEIN**  
**ATTORNEY GENERAL**

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